

Appl. No. 10/027,267
Amdt. dated September 6, 2005
Reply to Office Action of June 6, 2005

REMARKS

Claims 1-63 are pending in the instant application. In the Office Action mailed June 6, 2005, the Examiner rejects claims 1, 3, 12, 16, 18, 21, 22, 33-43, 45, 47-52, 54, 55, 59, 62, and 63. Claims 2, 4-11, 13-15, 17, 19, 20, 23-32, 44, 46, 53, 56-58, 60, and 61 are withdrawn.

By virtue of the amendments to the claims presented above, independent claims 1, 42, 51, 54, and 63 are amended. Support for the amendments can be found in the instant application at page 4, line 24 to page 15, line 8. Based on the amendments and remarks made herein, Applicants respectfully request that the rejections be withdrawn and that the application be passed to allowance.

1. Remarks on Paragraph 4 of the Office Action mailed on February 9, 2005: Rejection of Claims 1, 3, 34, 35, 42, 45, 47, 48, 50-52, 55, and 63 Under 35 U.S.C. §102(b)

In the Office Action mailed June 6, 2005, the Examiner rejects claims 1, 3, 34, 35, 42, 45, 47, 48, 50-52, 55, and 63 as being unpatentable under 35 U.S.C. §102(b) over U.S. Patent No. 5,074,855 to Rosenbluth et al. (hereinafter "the Rosenbluth patent").

With respect to claims 1, 3, 42, 55, and 63, the Examiner believes the Rosenbluth patent discloses the placement of an absorbent device (Abstract and col. 2, lines 25-44) that includes a therapeutic agent (col. 5, lines 7-11). With respect to claim 34, the Examiner refers to col. 5, lines 7-11 of the Rosenbluth patent. With respect to claim 35, the Examiner believes the Rosenbluth patent discloses a therapeutic agent that is applied to the surface of an absorbent article. With respect to claims 45, 47, 48, and 50-52, the Examiner believes the Rosenbluth patent discloses a therapeutic agent applied to the surface of a pad (col. 2, lines 55-57).

Claims 1, 42, 51, and 63 have been amended to clarify the structure of the claimed aspects of the present invention. As an example, the subject matter of claim 1 includes a fluid-absorbent body having a posterior region including a raised profile application region for projection within said vestibule intermediate the labia majora inwardly bounding same from a position posteriorly remote from the clitoris and extending to the rearwardmost aspect of the vestibule, and an anterior region merging with the posterior region for a generally external disposition about the vulvar region over the labia majora and spaced from the clitoris. The Rosenbluth patent does not disclose the structure of claims 1, 42, 51, 55, and 63 as amended. First, the device of the Rosenbluth patent does not have a posterior region extending to the rearwardmost aspect of the vestibule. In fact, the Rosenbluth patent specifically excludes and teaches away from such an extension: "The concavity in the posterior end 16 of the pad 12 allows for . . . leaving a clearance for the vaginal opening 37." (see col. 4, lines 36-40; Fig. 5) Second, the device of the Rosenbluth patent does

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not have an anterior region for a generally external disposition about the vulvar region over the labia majora. The pad 12 of the Rosenbluth patent resides primarily between the labia minora and the vestibule (see col. 4, lines 26-36, Fig. 6), with a ridge 26 that "extends into the interlabial space" from within the vestibule. (see col. 4, lines 40-41; Fig. 6). No portion of the pad of the Rosenbluth device is externally disposed about the vulvar region over the labia majora.

Claim 3 is directed to the device of claim 1, wherein the body includes a cover having a surface, and wherein the therapeutic agent is coupled to the surface. The device of the Rosenbluth patent does not include a cover insofar as one is not described anywhere in the Rosenbluth patent.

Similarly, claim 45 is directed to the method of claim 42, wherein the manufacturing act includes manufacturing a body with cover having a surface, wherein the formulation including the therapeutic agent is coupled to the surface. Again, the device of the Rosenbluth patent does not include a cover insofar as one is not described anywhere in the Rosenbluth patent.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 1, 3, 34, 35, 42, 45, 47, 48, 50-52, 55, and 63 are in condition for allowance and respectfully request favorable consideration and the timely allowance of those claims.

2. Remarks on Paragraph 7 of the Office Action mailed on June 6, 2005: Rejection of Claims 12, 16, and 21 as Obvious

In the Office Action mailed June 6, 2005, the Examiner rejects claims 12, 16, and 21 as being unpatentable under 35 U.S.C. §103(a) over the Rosenbluth patent in view of Australian Patent Application No. 199941153 to Lucas ("the Lucas application"). Applicants respectfully traverse the rejection.

Claims 12, 16, and 21 depend from claim 1. Claim 1 has been amended to clarify the structure of the claimed aspects of the present invention. As discussed above with respect to claim 1, the Rosenbluth patent does not teach or suggest all of the claim limitations of claim 1 as amended. Nor does the Rosenbluth patent teach or suggest all of the additional claim limitations of claims 12, 16, or 21. The Lucas application does not correct these deficiencies because it does not teach or suggest the subject matter of claim 1 as amended. Nor does the Lucas application teach or suggest the subject matter of claims 12, 16, or 21. The Lucas application discloses a method for applying an agent to a flat sheet and then rolling the sheet into a tampon and thus does not disclose applying an agent to a surface of either the pad of the Rosenbluth patent or the device of the instant application. There is no teaching or suggestion in either reference as to why or even

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how one would apply an agent to a flat sheet, roll the sheet, and produce the pad of the Rosenbluth patent.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 12, 16, and 21 are in condition for allowance and respectfully request favorable consideration and the timely allowance of that claim.

3. Remarks on Paragraph 8 of the Office Action mailed on June 6, 2005: Rejection of Claims 21, 22, 39, 40, 43, and 62 as Obvious

In the Office Action mailed June 6, 2005, the Examiner rejects claims 21, 22, 39, 40, 43, and 62 as being unpatentable under 35 U.S.C. §103(a) over the Rosenbluth patent in view of U.S. Patent No. 6,086,909 to Harrison et al. ("the Harrison patent"). Applicants respectfully traverse the rejection.

Claims 21, 22, 39, and 40 depend from claim 1. Claim 43 depends from claim 42. Claim 62 depends from claim 55. Claims 1, 42, and 55 have been amended to clarify the structure of the claimed aspects of the present invention. As discussed above with respect to claims 1, 42, and 55, the Rosenbluth patent does not teach or suggest all of the claim limitations of claims 1, 42, and 55 as amended. Nor does the Rosenbluth patent teach or suggest all of the additional claim limitations of claims 21, 22, 39, 40, 43, and 62. The Harrison patent does not correct these deficiencies because it does not teach or suggest the subject matter of claims 1, 42, and 55 as amended. The Harrison patent discloses a complex tampon-like device for the vaginally-applied treatment of dysmenorrhea and thus does not disclose the pad of the Rosenbluth patent used to treat incontinence Rosenbluth patent. There is no teaching or suggestion in either reference as to why or even how one would combine a vaginally-applied dysmenorrhea treatment with an incontinence pad to achieve the device of the instant application.

In view of the remarks set forth in this section, Applicants respectfully submit that claims 21, 22, 39, 40, 43, and 62 are in condition for allowance and respectfully request favorable consideration and the timely allowance of that claim.

4. Remarks on Paragraph 9 of the Office Action mailed on June 6, 2005: Rejection of Claims 1, 3, 16, 18, 36-39, 41, 42, 45, 48-51, 52, 55, and 59 as Obvious

In the Office Action mailed June 6, 2005, the Examiner rejects claims 1, 3, 16, 18, 36-39, 41, 42, 45, 48-51, 52, 55, and 59 as being unpatentable under 35 U.S.C. §103(a) over the U.S. Patent No. 3,490,454 to Goldfarb et al. ("the Goldfarb patent") in view of the Rosenbluth patent. Applicants respectfully traverse the rejection.

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With respect to independent claims 1, 3, 42, 51, and 55, the Examiner believes the Rosenbluth and Goldfarb patents together disclose the claimed structure.

Claims 1, 42, 51, and 63 have been amended to clarify the structure of the claimed aspects of the present invention. As an example, the subject matter of claim 1 includes a fluid-absorbent body having a posterior region including a raised profile application region for projection within said vestibule intermediate the labia majora inwardly bounding same from a position posteriorly remote from the clitoris and extending to the rearwardmost aspect of the vestibule, and an anterior region merging with the posterior region for a generally external disposition about the vulvar region over the labia majora and spaced from the clitoris. Neither the Rosenbluth nor Goldfarb patents disclose the structure of claims 1, 42, 51, 55, and 63 as amended. First, neither the device of the Rosenbluth patent nor the device of the Goldfarb patent has a posterior region extending to the rearwardmost aspect of the vestibule. Second, neither the device of the Rosenbluth patent nor the device of the Goldfarb patent has an anterior region for a generally external disposition about the vulvar region over the labia majora. Neither the Goldfarb patent nor the the Rosenbluth patent correct the deficiencies of the other with respect to disclosing the claimed structure.

Claims 3, 16, 18, 36-39, and 41 depend from claim 1. Claims 45 and 48-50 depend from claim 42. Claim 52 depends from claim 51. Claim 59 depends from claim 55. As described above, claims 1, 42, 51, and 55 have been amended to clarify the structure of the claimed aspects of the present invention. As discussed above with respect to claims 1, 42, 51, and 55, the Goldfarb patent does not teach or suggest all of the claim limitations of claims 1, 42, 51, and 55 as amended. Nor does the Goldfarb patent teach or suggest all of the additional claim limitations of claims 3, 16, 18, 36-39, 41, 45, 48-50, 52, and 59. The Rosenbluth patent does not correct these deficiencies because it does not teach or suggest the subject matter of claims 1, 42, 51 and 55 as amended. There is no teaching or suggestion in either reference as to why or even how one would combine a menstrual pad with an incontinence pad to achieve the device of the instant application.

Further, the Examiner states that Goldfarb and Rosenbluth may be combined for the benefit disclosed in Rosenbluth. This combination-for-benefit has no bearing on the instant application in that the benefit disclosed in Rosenbluth is to provide management of incontinence by occluding the urethral meatus while leaving the vaginal opening unoccluded. The device of the instant application does not seek to leave the vaginal opening unoccluded in that such a structure would defeat its usefulness. Finally, the Examiner states that "Goldfarb/Rosenbluth teach a tampon product..." Even if this were true, this would again have no bearing on the instant application in that the device of the instant application is not a tampon product.

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In view of the remarks set forth in this section, Applicants respectfully submit that claims 21, 22, 39, 40, 43, and 62 are in condition for allowance and respectfully request favorable consideration and the timely allowance of that claim.

5. Remarks on Paragraph 10 of the Office Action mailed on June 6, 2005: Rejection of Claim 33 as Obvious

In the Office Action mailed June 6, 2005, the Examiner rejects claim 33 as being unpatentable under 35 U.S.C. §103(a) over the Rosenbluth patent in view of the Lucas application and further in view of U.S. Patent No. 5,585,277 to Bowie et al. ("the Bowie patent"). Applicants respectfully traverse the rejection.

Claim 33 depends from claim 1. Claim 1 has been amended to clarify the structure of the claimed aspects of the present invention. As discussed above with respect to claim 1, the Rosenbluth application does not teach or suggest all of the claim limitations of claim 1 as amended. Nor does the Rosenbluth application teach or suggest all of the additional claim limitations of claim 33. The Lucas application/Bowie patent do not correct these deficiencies because they do not teach or suggest the subject matter of claim 1 as amended. Nor do the Lucas application/Bowie patent teach or suggest the subject matter of claim 33. Bowie discloses a method for screening ligands for potential pharmaceutical effectiveness and thus does not disclose a formulation including a ligand adapted to target a therapeutic agent. There is no teaching or suggestion in any of these references as to why or how one would add a screening method to the tampon of the Lucas application and the incontinence device of the Rosenbluth patent.

In view of the remarks set forth in this section, Applicants respectfully submit that claim 33 is in condition for allowance and respectfully request favorable consideration and the timely allowance of that claim.

6. Remarks on Paragraph 11 of the Office Action mailed on June 6, 2005: Rejection of Claim 54 as Obvious

In the Office Action mailed June 6, 2005, the Examiner rejects claim 54 as being unpatentable under 35 U.S.C. §103(a) over the Goldfarb patent in view of the Rosenbluth patent and further in view of U.S. Patent No. 4,726,976 to Karami et al. ("the Karami patent"). Applicants respectfully traverse the rejection.

First, the Examiner does not explain how the Rosenbluth patent contributes to this rejection.

Second, claim 54 has been amended to clarify the structure of the claimed aspects of the present invention. As an example, the subject matter of claim 54 includes an absorbent article

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having a posterior region including a raised profile application region for projection within said vestibule intermediate the labia majora inwardly bounding same from a position posteriorly remote from the clitoris and extending to the rearwardmost aspect of the vestibule, and an anterior region merging with the posterior region for a generally external disposition about the vulvar region over the labia majora and spaced from the clitoris. The Goldfarb patent (even considering the Rosenbluth patent) does not disclose the structure of claim 54 as amended. The Karami patent does not correct these deficiencies because it does not teach or suggest the subject matter of claim 54 as amended. There is no teaching or suggestion in either reference as to why or even how one would combine a menstrual pad with an incontinence pad to achieve the device of the instant application.

In view of the remarks set forth in this section, Applicants respectfully submit that claim 54 is in condition for allowance and respectfully request favorable consideration and the timely allowance of that claim.

In conclusion, and in view of the remarks set forth above, Applicants respectfully submit that the application and the claims are in condition for allowance and respectfully request favorable consideration and the timely allowance of claims 1-63. If any additional information is required, the Examiner is invited to contact the undersigned at (920) 721-8863.

The Commissioner is hereby authorized to charge any prosecutorial fees (or credit any overpayment) associated with this communication to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such extension is requested and should also be charged to our Deposit Account.

Respectfully submitted,

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